

# LAW ENFORCEMENT NEWS

Vol. VIII, No. 9

ISSN 0364-1724

May 10, 1982

**No cure for the common code:**

## Crime-law revision stalls

The latest effort to make major revisions in the nation's criminal code apparently has ended in failure, despite the Reagan Administration's strong support for the measure.

A move to bring the criminal code legislation to the Senate floor died on April 27 when supporters failed to break a filibuster by conservative Republican Senators who opposed it.

While supporters could make a second attempt to bring the bill to the floor, many say the effort would be futile because the legislation is too controversial to handle in an election year.

Republican Senator Strom Thurmond, chairman of the Senate Judiciary Committee, and Senator Joseph R. Biden Jr., the committee's ranking Democrat, both conceded after the filibuster that the bill's prospects looked dim.

Kathy Zebrowski, an aide to Senator Biden, put it this way: "It doesn't look impossible, but it doesn't look good."

The current proposal, approved by the Judiciary Committee last November, has drawn fire from both conservative and liberal forces.

The Moral Majority launched a major effort to kill the bill last fall, arguing that it is too lenient on street crime and too

strict on white-collar crime. It sought to include a Federal death penalty provision and objected to a clause that would allow prosecution of a husband for forcibly raping his wife.

The American Civil Liberties Union also opposed the legislation, arguing that it would trample individual liberties. It objected to provisions that would make it more difficult for defendants to be released on bail before trials, make sentences for some crimes mandatory and toughen obscenity laws.

It is the combination of controversial provisions that seems to have stalled the bill. Senator Thurmond told the Washington Post after the filibuster, "Too many members of Congress don't want to face these hot issues this year. That's the bottom line."

Biden aide Zebrowski said the Delaware Democrat described further efforts to pass the legislation this year as "an exercise in futility" and said he will not push the matter again unless there is some indication that the House of Representatives would also take action on the bill.

But House action this year is also unlikely, according to Tom Hutchison,

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## What They Are Saying:

*"I don't get the message that morale is low. My morale is great."*

Police Chief Bob Stewart of Vancouver, British Columbia, responding to union charges that a detective-rotation plan has hurt officers' morale. (Page 2:3)

## With bated breath, Fed officials claim headway against drugs

By PETER DODENHOFF

For a group of major-city police chiefs gathered in Washington recently, it was a classic case of "good news, bad news" as far as drug enforcement was concerned. The good news, according to a number of Federal officials who addressed the group, is that the efforts of the Vice Presidential Task Force on South Florida Crime are beginning to make a dent in the flood of narcotics smuggling in the Miami area. The bad news is that the smugglers may be laying low, stockpiling drugs in the Bahamas while waiting for law enforcement to drop its guard.

Addressing the semiannual meeting of the Police Executive Research Forum last month, Francis M. Mullen Jr., the acting administrator of the Drug Enforcement Administration, cited a number of factors as contributing to the apparent reduction in the flood of drugs from South America, including the reorganization of DEA and the cooperative efforts being carried out by his agency and the FBI.

"The FBI belongs in drug enforcement," Mullen said, adding that the new working arrangement between the two agencies, who have concurrent jurisdiction in drug crimes, affords "all the

benefits without the problems."

Mullen, who came to DEA from an executive spot at the FBI, conceded that the South Florida task force "is not the answer" to the drug problem in the Miami area. Long-term investigations are the key, he said, noting that the number of joint DEA/FBI drug probes has jumped from fewer than 15 last year to 157 as of April 23 of this year.

The DEA chief also called for legislation that will increase the ceiling on forfeiture of drug-related assets. Responding to one California police chief's assertion that "buy-money" has all but dried up in that state, Mullen said that DEA has been using the proceeds from the assets seized from drug traffickers to provide additional funds for drug buys.

In a later statement to the PERF chiefs, however, FBI director William H. Webster said it was "fair to assume" that local law enforcement will have to take on additional responsibility for mid-level "buy-and-bust" activities.

Although he was no less effusive in his praise for the new cooperative working arrangement between the bureau and the DEA, Webster said that adding the FBI

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**Turning up the feedback level:**

## Improving methods for evaluating cops

By PETER BELLMIO

The mere mention of the phrase "performance evaluation" can bring a scowl to the faces of some police administrators, just as it can generate uneasiness among the police line personnel who are to be evaluated. Needless to

say, performance evaluation systems are usually developed and operated in an atmosphere of concern and tension.

Much of the disagreement that surrounds performance-evaluation methods centers on determining measures for standards of acceptable performance. In attempting to measure the qualities of "good cop," resentment can develop when personnel view standards or measures of performance as unfair or inaccurate.

Other articles in this series have described the systematic approach to law enforcement that is at the heart of the Integrated Criminal Apprehension Program. The enthusiasm surrounding a new program may lead line officers to participate in ICAP-related activities.

### THE ICAP STORY

*Eleventh article in a series.*

But while job satisfaction needs to be sustained by regular feedback that is part of a career-development program, departments that create new roles for personnel but keep the same old performance evaluation system and reward structure are headed for organizational trouble. An effective performance evaluation and career development system is the glue that holds the ICAP process together over the long term.

An effective performance-evaluation system in an ICAP city also embodies the new performance standards the department views as necessary to implement ICAP components. Personnel work with more clearly fixed responsibility and know what is expected of them; recognition is given to those who perform well. The system should also provide useful feedback to those who perform below standards. These officers should be encouraged to improve their performance through increased effort, and by obtaining new skills or new knowledge.

Overall, performance evaluation should create a constructive process through which officers are encouraged to produce results that help the department reach its larger organizational goals. A department sends out a clear signal to its personnel about performance expectations when salary increases, promotions, assignments and even layoffs are based upon clearly articulated measures of performance. Yet, at the same time, the performance-evaluation system should not just address organizational goals. The system should be only one part of a career-development process that helps officers meet their personal performance goals.

### The State of the Art

Since the early 1800's, police departments have tried surprisingly few approaches to performance evaluation. Without embarking on a historical treatise, it seems that three approaches have dominated the development of performance evaluation.

One thread that winds throughout the history of police performance evaluation is the use of broad, intuitive measures of officer performance. While all subjectivity cannot be eliminated in performance

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## Meese: little hope for more Fed funds

Criminal justice programs that receive Federal funding — even those that have proven effective — will probably receive no increases in Federal allocations in the immediate future, Presidential counselor Edwin Meese told police chiefs at the PERF meeting in Washington last month.

"I doubt we'll be in a position to fund even proven programs beyond what we're doing now," Meese told the group.

Despite that gloomy prediction, however, Meese assured the police executives that law enforcement at the Federal level will have "a definite priority" for the 1983 and 1984 fiscal years.

In the wake of the recent demise of the Law Enforcement Assistance Administration, legislation has been introduced in both houses of Congress to provide funding for criminal justice programs that have "proven successful" and for innovative training, demonstration and technical assistance projects.

Meese declined to predict the likelihood of a Presidential veto if the bills are passed.



## First day on the job, Houston chief finds the car pool dry

When Houston's new police chief, Lee P. Brown, went to work last month, it didn't take him long to discover one of the serious problems facing officers there.

Brown decided to make unannounced visits to four of the city's six police substations on his first day on the job, hoping to learn some of the department's most pressing needs.

He did. When he walked into a substation in southwest Houston, he found four officers who couldn't make their rounds that night — they were stranded because their patrol cars had broken down.

They told the new chief that aging patrol cars and a lack of replacement cars are major frustrations for officers trying to do their jobs in Houston.

But their frustrations should ease "any day now" when 270 new patrol cars ordered last year are due to arrive, ac-

cording to Larry Troutt, the department's public relations director.

Troutt said that in addition to the 270 cars already on the way, the city expects about 200 more vehicles, many of them patrol cars, within a few months.

The Houston City Council has also authorized the purchase of 500 more vehicles for next year.

The problem with breakdowns began about a year ago, when the department's order of new cars was held up because the city budget was more than a month late. The delay caused the city to miss last year's deadline for ordering patrol cars, so the department had to wait until the assembly lines started work this year.

Without the new cars, officers have been driving many vehicles beyond the 60,000-mile limit that Houston usually enforces on its cars, Troutt said.

"The lack of workable cars has put a strain on the department.

"It has been a problem," Troutt said. "It is a factor in morale. . . . When you're on the front lines, the thing that affects you most is your equipment — your car, your radio and other equipment."

Houston has a fleet of about 1,700 patrol vehicles, about 100 of which are out of service at any given time. The district that Brown visited on his first day has suffered more than other substations because it has more officers and covers more area.

Sgt. J.A. Winters of the department's Garage Division said that only about one-third of Houston's patrol fleet is in good shape.

"The rest are going to be junk," he added.

## Oklahoma cops considering parole-reform referendum

Oklahoma police officers, contending that early paroles make a mockery of law enforcement efforts to get criminals off the streets, may propose a referendum that would make prisoners ineligible for parole until they had served at least half of their sentences.

According to The Sunday Oklahoman, the officers are concerned because paroled inmates frequently commit other crimes and because the prospect of early parole reduces the deterrent effect of sentencing.

Oklahoma law now permits a parole bid at any time, except for anyone serving a third conviction for armed robbery, who must serve at least 10 years. Inmates may also earn credits toward reduced sentences by donating blood or performing other services.

Lieut. Mike Heath, commander of the Oklahoma City Police Department's homicide unit, and one of those looking into the possibility of a referendum, told the Oklahoman, "People are not doing enough time. Where is the deterrence? The time we give them doesn't mean anything."

But Larry Meachum, director of the State Department of Corrections, said the proposal would aggravate the problem of prison overcrowding. Heath agreed, but said he thinks the solution is to build more prisons.

"To arbitrarily put a 'no vacancy' sign up after 5,000 inmates is a little ridiculous," Heath said.

## Vancouver cop-rotation plan ripped as corporal punishment

The Vancouver, British Columbia, Policemen's Union has warned that officers may withdraw their services as a result of Police Chief Bob Stewart's in-

sistent policy. Detectives do the work of corporals, according to a report in the Canadian newspaper The Province.

In February, Stewart had implemented a plan that requires detectives to rotate with corporals, allowing the corporals to gain investigative experience as detectives before being promoted to sergeant.

But Vancouver detectives, who argued that the plan constitutes demotions for the 38 detectives involved, challenged Stewart's right to put the plan into effect. When a British Columbia Supreme Court ruled that Stewart was within his managerial rights in setting up the rotation, the 940-member union warned of the withdrawal of services.

Union secretary John Catterall told The Province, "We've always played fair ball but I don't know how much longer that will last. Our strength to act responsibly and never engage in a withdrawal of services has become our weakness. How many times can we turn the cheek?"

But Chief Stewart said the union hasn't succeeded in convincing him that the rotation plan has hurt morale.

"I don't get the message that morale is low," the chief remarked. "My morale is great."

The matter may be taken up when contract negotiations begin in October. The Supreme Court justice who heard the case said that while Stewart is within his rights to begin the rotation, the plan could be subject to collective agreement during the negotiations.

## Fla. town, without a marshal, starts six-man 'peace co-op'

The tiny North Florida town of Hampton, which attracted statewide attention with its efforts to find a qualified town marshal, now has six of them.

After appointing two men who were later found to be unqualified for the job, and refusing to appoint the only qualified candidate because she was a woman, Hampton started what it calls a peace cooperative.

Under the plan, six retired officers from nearby Jacksonville share the marshal's duties and \$180-a-week salary, taking turns patrolling the town of 300. The agreement allows Hampton to have experienced, qualified police officers on the job and lets the retired officers put in enough hours so that their police certification doesn't expire.

"It's working out very well," City Council chairman John Evans said recently. "We're told this is the first time this has been used in the state of Florida, but it's working fine."

Hampton's search for a marshal drew attention when Diane Bruno, a 28-year-old resident of Hampton who graduated from the Santa Fe Community College public safety program with a 3.75 grade-point average, filed a complaint with the Equal Employment Opportunity Commission in Miami, charging that her application was turned down because of her gender.

The town's only female city council member was quoted in the Tampa Tribune as saying, "I think it's going to take a man to get the job done."

The problem was complicated when two male applicants were appointed, then were disqualified after they were found to have stretched their qualifications.

Publicity about the difficulty in finding a marshal drew rowdy teenagers and speeders, although Evans said news reports that painted the town as lawless exaggerated the problem. He said the town has returned to its usual quiet since the peace cooperative began.

The town has also appointed an interim marshal, who will serve until September, when city elections take place.

The interim marshal, a man, had served as marshal of a nearby town, Evans said.

Meanwhile, Bruno's complaint is being processed. A spokesman for Southern Legal Counsel Inc., a civil rights organization in Gainesville, said the group is considering whether to accept her case and provide free legal counsel.

## This Periodical is Indexed in

## The Criminal Justice Periodical Index



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## LAW ENFORCEMENT NEWS

Law Enforcement News is published twice monthly (once monthly during July and August) by L.E.N. Inc. in cooperation with the Criminal Justice Center of John Jay College of Criminal Justice, 444 West 56th Street, New York, NY 10019. Subscription rates: \$14.00 per year (22 issues). Advertising rates available upon request. Telephone: (212) 489-3592, 3516.

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**A pro-pain in the neck?**

## Natural-gas patrol cars get mixed reviews

If there is one place in the country that sums up how police departments feel about the use of propane as an alternative fuel in patrol cars, it is Pinellas County, Florida.

In the county's biggest city, Clearwater, the police department has equipped 10 cars to use propane fuel in a year-long test. Garage supervisor W.E. Brown says the first six months of the test have been highly successful, cutting the expense for fuel almost in half.

But in the Pinellas County Sheriff's Department, propane-fueled cars have proven to be a major headache. The department, which at one time had 74 propane vehicles, now has five and it plans to phase those out, according to an assistant garage supervisor, Harold Towry.

The truth about propane vehicles probably lies somewhere between those two extremes, but there seems to be no consensus among police departments that have used propane, experimented with it or decided against it as to the fuel's savings potential. Some are turning toward the use of propane, while others reject it. "It's hard to say if there is a trend one way or the other," said Michael J. Foster, author of the recent book "Energy in Law Enforcement."

"The interest generated by the oil shortages has sort of gone to the back of people's minds now that price has come down slightly," Foster said.

So the question remains: Is propane a viable alternative for police departments seeking to reduce fuel costs?

Foster says yes. He estimates that the use of propane can result in a 30 percent savings in fuel costs. Propane also burns

cleaner than gasoline, he said.

But Foster cautioned that the savings from propane can vary according to several factors. He recommended that police departments consider three factors before choosing propane use:

- ¶ Purchasing vehicles already equipped for propane rather than converting vehicles it owns. Foster said at least one major car manufacturer is considering taking orders for propane vehicles, eliminating the need for mechanics' labor at the department.

- ¶ Equipping cars to use propane only, rather than installing a dual-fuel system that allows the driver to switch to gasoline. Single-fuel systems are more efficient, Foster said, because the car can be tuned specifically for propane use.

- However, if the department doesn't plan to install its own pumping station or if the availability of propane is otherwise limited, the dual system may be preferable, he added.

- ¶ Converting only patrol cars or other heavily used vehicles. Foster said the fuel savings will balance out the conversion costs much more quickly in a vehicle that is used frequently. Administrative vehicles would not show the return quickly, he said.

The biggest question surrounding the use of propane vehicles seems to be whether the decrease in mileage caused by propane's lower BTUs per gallon cancels out the savings in cost per gallon.

Foster said he's found that most propane fleets report about a 20 percent loss in mileage — not enough to cancel out the 50 percent savings in price.

In Clearwater, the police department's propane cars have gotten roughly the

same mileage as gasoline-powered vehicles, according to the garage supervisor there.

But Pinellas County officers reported that they got only five to eight miles per gallon on propane, compared to about 11 with gasoline, prompting officials to conduct a test using 1982 Dodge Diplomats the department had just purchased.

Assistant garage supervisor Towry said the test showed that the propane vehicles got 12.5 mpg, while the gasoline vehicles got 15.5 mpg, a difference of almost 20 percent. Towry said neither figure was as high as the department had expected.

Another debate over the advantages of propane focuses on whether it offers any savings in maintenance costs. Because propane undergoes complete combustion in the engine, no carbon is deposited on spark plugs or internal engine parts.

But it remains questionable whether the savings from less frequent maintenance are significant for police fleets. Clearwater reports that the heavy use of police vehicles means they need regular maintenance anyway, so propane brings no savings.

The Pinellas County Sheriff's Department reported that it enjoyed some savings in maintenance because the engines remained clean longer.

Foster agrees that police fleets may not realize the maintenance savings. "The typical trucking fleet might get savings from cleanliness, but police vehicles are used so often and so hard, that it's not a major advantage," he said.

A third problem with propane use — one that seems to bring agreement from both proponent and detractors — is that officers dislike refueling their vehicles.

Both Clearwater and Pinellas County officials said propane sometimes shoots out of a pressure valve on the car when the tank is nearly full, causing frostbite-like burns on the officer's hands.

Pinellas County also encountered a safety problem because radios were installed in the trunks next to the propane tanks. A safety engineer for the state insurance commission recommended that insulation be installed to prevent sparks from the radios igniting the tanks. The additional expense of insulation was cited as a major factor in the decision to phase out propane vehicles.

### Hugging the curves



Just east of Sacramento, Calif., drivers on Saratoga Way find a challenge that can bring out the Mario Andretti in anyone. The zig-zag center line was painted that way to warn motorists that the road ends at the top of the hill.

## Gun-control revisions facing two-sided Senate opposition

Broad revisions in Federal gun control statutes, which were recently approved by the Senate Judiciary Committee, are expected to face strong opposition from both those who advocate stronger gun controls and from the National Rifle Association when the amendments come to the Senate floor later this year.

The NRA, which pushed for the revisions to lift most prohibitions against the sale of guns across state lines, opposes an amendment to the bill that requires a 14-day waiting period and a check of a buyer's local police record before a gun sale. A spokesman for the NRA said the group will not support the bill unless the waiting-period provision is dropped.

Meanwhile, a spokesman for Senator Edward Kennedy, who proposed the waiting period, said the senator will fight the revisions unless they are made to apply only to sporting guns, excluding handguns.

The bill, based on measures introduced in the Senate by Senator James McClure of Idaho and in the House by Rep. Howard Volkmer of Missouri, would reduce restrictions on gun sales by dealers, collectors and sports enthusiasts. It would also allow wider out-of-state sales, mail-order sales and imports.

The Judiciary Committee also voted to impose prison terms of at least two years for persons who use a firearm in the commission of a felony.

The bill, proposed as amendments to the 1968 Gun Control Act, would:

- ¶ Allow out-of-state sales as long as the

sale did not violate the purchaser's home-state laws on guns;

- ¶ Lift restrictions on handgun sales between private gun owners and eliminate all record-keeping for such transactions;

- ¶ Redefine gun dealers to exclude persons who make only "occasional sales" of weapons;

- ¶ Allow private citizens to import firearms;

- ¶ Change the definition of Saturday Night Specials in a way that critics say would make importing cheap handguns easier.

Supporters of the bill said it is necessary to end abuses by Federal law enforcement agencies. John Adkins, a spokesman for the NRA, said his organization has documented cases in which the Bureau of Alcohol, Tobacco and Firearms had "abused or harassed law-abiding gun owners" under the current law.

"The law's provisions are not clearly defined," Adkins said. He said the new bill would define the terms used in the Gun Control Act, providing protection for the law-abiding gun dealer and collector.

"It provides protection for individuals who might be charged for technical gun violations," he said. "After all, this is a regulatory act, not a criminal one."

Kennedy's spokesman argued that the bill would weaken controls on handguns at the same time that it eases the burden on law-abiding gun owners. Jerry Tinker, a legislative assistant with the

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# People & Places

## Dallas cop lists his chief qualifications

When Glen D. King stepped down as chief of the Dallas Police Department in March, Charles L. Lynch, a 20-year veteran of the department, decided to go after the job.

He is confident that his qualifications for the job go far beyond his rank of sergeant.

Lynch, who works the late-night shift at central patrol, holds an associate's degree in political science, a bachelor's in criminal justice and a master's in human development and management. He also has taught police community relations at Abilene Christian University and courses at Dallas Police Academy, according to the Dallas Times Herald.

So Sgt. Lynch submitted his application for the chief's job despite his rank and despite the fact that the city manager's office had indicated it would accept applications by invitation only.

"Whether you're a patrolman or a sergeant or a chief has nothing to do with whether you're qualified for the part," Lynch was quoted as saying. "I think I could do a good job or I wouldn't even try to apply."

King, 57, resigned a week after suffering two heart attacks. He had been chief since May 1979.

Before becoming Dallas's top cop, King served on the staff of the International Association of Chiefs of Police, the last five years as executive director. He had previously served on the Dallas

Police Department for about 20 years.

Executive Assistant Chief Jack Revell has been appointed Acting Chief during the search for a successor, which is expected to end in about two months.

Beverly Gandy, the city's director of public affairs, said the staff of City Manager Charles Anderson has begun interviews. The candidates include people both from within the department and outside, she said.

Gandy said she could not estimate how many candidates are under consideration.

## Former Va. chief heads for the field

Roy McLaren, a staff member with the Police Executive Research Forum in Washington, has been named head of the forum's Field Service Division, it was announced recently.

McLaren, the former police chief of Arlington, Va., also served as director of field operations for the International Association of Chiefs of Police, where he supervised or participated in more than 300 management studies of police departments in such cities as Atlanta, Chicago, Cincinnati, Dallas, Detroit, New Orleans, New York and Seattle.

PERF's executive director, Gary P. Hayes, said McLaren will be available immediately for consulting assignments and management studies and will be in

## Higgins becomes top gun at BATF

Stephen E. Higgins, the deputy director of the Bureau of Alcohol, Tobacco and Firearms, has been named acting director of that agency, replacing G.R. Dickerson, who has become deputy commissioner for international affairs at the U.S. Customs Service.

Higgins joined the BATF in 1961 as an inspector in Omaha, and has since served in Chicago, Dallas, Philadelphia and San Francisco. He has been the bureau's deputy assistant director, director of its Midwest region, assistant director for regulatory enforcement and, at 36,

became the youngest assistant director in the bureau's history.

Now 43, he heads the bureau that enforces the nation's firearms laws, as well as collecting about \$8 billion annually in Federal alcohol and tobacco excise taxes, the third largest source of tax revenue in the Federal government.

In an ironic twist, Higgins' appointment came on the same day that Neal Knox, the chief lobbyist for the National Rifle Association, was fired by the president of that organization as a result of what was called a "falling out" over Reagan Administration plans to transfer firearms enforcement activities to the Secret Service.

The NRA had done an unexpected turnaround on the transfer plan, first supporting the Administration's proposal and later deciding to back retention of BATF when it was realized that the Secret Service might enforce the gun laws even more vigorously, and with greater resistance to political pressure (LEN, April 12, 1982).

charge of the forum's Police Information and Research Service. He will also direct the management training bulletin program.

McLaren had previously served as PERF's project manager assigned to the staff of the Commission on Accreditation for Law Enforcement Agencies.

## Hunt is on at Smith & Wesson Academy

Lieut. Col. Robert E. Hunt, the new director of the Smith & Wesson Academy in Springfield, Mass., plans to tailor the academy's curriculum to meet the "new demands" being made of officers.

"Both technique and technology of law enforcement training are changing rapidly," the new director said. "New demands are being made on police officers. We expect to make our training programs the practical ideal of what law enforcement training should be today."

Hunt comes to the Smith & Wesson Academy from the Massachusetts State Police, where he was commanding officer of staff operations.

He served the Massachusetts State Police for 23 years, attaining the rank of major in 1979. During his tenure, he also served as a troop commander and as commander of the Bureau of Administrative Services.

Hunt is a 1973 graduate of the FBI National Academy and has a master's in public administration from Northeastern University.



Robert E. Hunt

## Criminal code overhaul again fails to get through Congress

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counsel to the criminal justice subcommittee of the House Committee on the Judiciary.

Rep. John Conyers Jr. is now conducting hearings on the House version of the bill, particularly proposals to include the issues of capital punishment and preventive detention in the criminal code bill.

Although Hutchison said the subcommittee has no plans to end work on the bill, he said the Senate action may discourage those working on it.

"In light of what the Senate has done, I'd say it is unlikely that the bill will get out of committee this year," he noted.

The current criminal code proposal is a 425-page consensus bill that represents a bipartisan effort to bring consistency and order to the hodgepodge of Federal crime laws. In an attempt to cut down on the controversy that has overcome similar proposals during the past 14 years, Senators Thurmond, Biden and

Edward M. Kennedy, another ranking Democrat on the committee, agreed to omit sensitive issues like the death penalty, gun control and efforts to allow the use of illegally seized evidence.

The bill would increase the maximum sentences for most crimes by limiting the power of judges to use probation and by abolishing the Federal parole system. It would also give judges the authority to preventively detain before trial those defendants they consider to be dangerous to the community.

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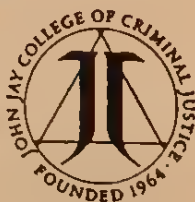
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# SUPREME COURT BRIEFS

By AVERY ELI OKIN



Inasmuch as the Supreme Court of the United States is the court of final review, the Clerk of the Court is constantly being inundated with thousands of cases each year. Many of the cases filed with the Court are very narrow in scope in that the outcome would only affect the rights and obligations of the few persons actually involved in the litigation.

Judicial economy dictates that the Supreme Court only hear and decide a small fraction of the cases which are submitted for full plenary review. Over the years, a workable case-screening system has evolved to determine which appeals will receive the Court's full attention. The first criterion focuses on whether the case involves a "substantial Federal question" — that is, whether the case is of significance and will have an effect beyond just the few persons involved in the controversy.

If it is determined by the Court clerks that a case in fact meets this standard, the case is then subjected to the test known as the "rule of four." Four of the nine Justices must vote in the weekly conference to schedule a case for full plenary review.

This two-pronged test has had the effect of allowing only about five percent of the cases filed to be granted full plenary review. As a result, very few cases involving the interpretation of a local ordinance are the subject of the Court's full attention. Even rarer are those cases involving the role of a police chief and his actions in the interpretation of a local ordinance. One such case recently decided by the Supreme Court is analyzed below.

## Local Ordinances

In a unanimous decision, the Supreme Court announced that a local ordinance

which directed the police chief to conduct an investigation of all persons who apply for a business license, to determine whether the applicant is "connected with criminal elements," was not so vague as to be in violation of the Constitution.

Prior to the origin of the present case some six years ago, the City Council in Mesquite, Texas, passed an ordinance in order to regulate the coin-operated amusement establishments which were playing a growing role in the social activities of the city's youth. The stated purpose of the enacted ordinance, No. 1353, was to prevent truancy and minimize the risk of minors being exposed to those persons "who would promote gambling, sale of narcotics and other unlawful activities."

Section 5 of Ordinance 1353 provides: "It shall be unlawful for any owner, operator or displayer of coin-operated amusement machines to allow any person under the age of seventeen (17) years to play or operate a coin-operated amusement machine unless such minor is accompanied by a parent or legal guardian." Being very much aware that the coin-operated video games appeal to a broad cross section of society and especially to minors, and to minimize further the possibility that local youths would be exposed to undesirable influences at the amusement centers, the City Council also passed Section 6 of the Ordinance 1353, which provides for a rigorous review of each applicant before a license would be issued.

In theory and in practice, a Section 6 review occurred whenever an applicant applied to the City Secretary. Copies of the application were then delivered to the City Manager, the Chief Building Inspector, the City Planner and the Chief of Police, each of whom were then required to investigate the proposal from the standpoint of their special expertise and make a recommendation to the City Manager.

Under the ordinance, the Chief of

Police was required to make his recommendation "based upon his investigation of the applicant's character and conduct as a law-abiding person, and shall consider past operations, if any, convictions of felonies and crimes involving moral turpitude and connections with criminal elements, taking into consideration the attraction by such establishments of those of tender years."

When the various officials made their reports and recommendations, the City Manager would either approve or reject the license application. If the license was denied the City Manager was required to make a written notation of his reasons for the denial. The ordinance further provided for a review of the denial before the City Council.

The ordinance further provided that if the City Manager's decision to deny the license was made because of an adverse recommendation by the Chief of Police, the applicant had a very heavy burden of proof to establish before the City Council that he "is of good character as a law-abiding citizen to such extent that a license should be issued." Upon a successful showing of good character by the applicant, the City Council was empowered either to reverse or affirm the decision of the City Manager in whole or in part.

The present case had its origin on April 5, 1976, in the City Council's action with regard to an application made by Aladdin's Castle Inc. to open an amusement center in a shopping mall. The Mesquite City Council exempted the applicant from the requirement of Section 5 dealing with unaccompanied children under the age of 17. In what is commonly known as an accommodation to induce new business, the City Council lowered the permissible age of unaccompanied children from 17 to seven.

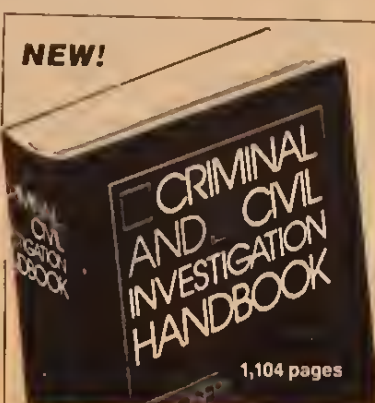
After receiving this special treatment from the City Council, the applicant entered into a long-term lease and made necessary arrangements for the opening

of a coin-operated amusement center. In August, however, the application hit a snag.

The City Manager refused to issue a license for the first year of operation because of the recommendation that he had received from the Chief of Police. In his investigation, Chief G. W. Grayson had come to the conclusion that the parent corporation of Aladdin's Castle Inc. was connected with criminal elements.

The applicant brought suit in a Texas state court to obtain an order which would require the City of Mesquite to issue the license. The Texas court found that neither the applicant nor the parent company had any connection with criminal elements, and further ruled that the city ordinance was vague and con-

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Edited by Joseph J. Grau

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## Getting into the thick of police ethics:

# Seminar wrestles with 'hard choices'

A police officer receives an anonymous tip that a man standing on a street corner is carrying a gun. When the officer arrives at the corner, he recognizes a man with a history of armed robbery. Although he knows that an anonymous tip and a record of crime don't constitute probable cause, the officer searches the man, hoping to prevent a crime.

Partners arrive on the scene of a domestic quarrel. The woman claims her husband has beaten her and begs the officers to arrest him. They talk to both husband and wife, trying to calm them down. When the quarrel seems to have blown over, they leave without making an arrest.

Did the officers in these cases break their oaths to uphold the law, the first by making a possibly illegal search and the second by failing to arrest an alleged lawbreaker? Were their actions morally correct, and under what circumstances are these actions acceptable?

Those questions were at the heart of the opening session of the seminar on "Police Ethics: Hard Choices in Law Enforcement," conducted by the Institute

for Criminal Justice Ethics at John Jay College of Criminal Justice in New York City on April 22.

## Well-Intentioned, but Unjustifiable

William Heffernan, one of the executive directors of the ethics institute, raised the question of police obligations to obey the law in a session on "Duty and Temptation in Policing."

Heffernan argued that many common violations of the Fourth Amendment and of full-enforcement oaths, while motivated by officers' desire to promote justice or maintain social order, result in uneven enforcement of the law and cannot be justified.

He recommended that police administrators seek legislation outlining when and how officers can use discretion, or make their own rules to guide officers in those situations.

But two commentators, Kenneth Conboy, the Deputy Commissioner for Legal Affairs for the New York City Police Department, and Cy Egan, a veteran police reporter for the New York Post, disagreed sharply with Heffernan's position.

They argued that many of the actions Heffernan labeled violations, such as the

decision not to make an arrest, constitute the use of discretion that is permitted within the oath and is necessary for officers to make the best use of their time and authority.

## Two Criteria for Justification

In outlining his position, Heffernan listed four types of common violations and argued that only one type — that illustrated by the officers answering the domestic quarrel — can be justified.

He said that in such instances, where the officer fails to enforce a law in order to maintain social order, the violation meets the two criteria for justification: the officer knows that an underlying goal of the police oath would be better served by not enforcing a law, and that it isn't possible to notify the state before taking the action.

Heffernan asserted that the three other types of violations do not meet those conditions, including that illustrated by the officer who searched a suspect without probable cause.

Those types include trying to bring about justice by committing a low-level violation, as in the first example above; trying to bring about justice by failing to

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# Officers learn media relations in front of cameras

"And now with the WHIZ 6 o'clock news, here is Harry Brown."

The television camera shifts from the station call letters to a news set. Anchoring the news is a nervous, burly police officer. His voice is halting and perspiration can be seen on his forehead and palms, as he holds his script with trembling hands.

The captain seems unsure of his words, constantly losing his place in the script. The audience agonizes for him. Sixty seconds later, the screen fades to black and the news item has been reported.

That scene is not an actual newscast, but a small segment of a media relations course for commanding officers sponsored by the training bureau of the Kentucky Department of Justice.

During the course, the officers participate in a role-reversal exercise in which they are required to cover a complicated news story, write a script and report the story in 60 seconds before video cameras.

Sound simple enough?

Seasoned police commanders often squirm in their seats at the thought of appearing before the bright lights and cameras to air their news report while veteran news reporters watch, critique and grade their performance.

But training specialists involved with the program say it has brought a new understanding of the news media and their function to the more than 125 officers who have completed the course.

Begun in December 1980, the course

grew out of a request from officers in the Louisville-Jefferson County area of Kentucky for press relations training.

The Bureau of Training worked with public information officers from the Federal Bureau of Investigation, the Jefferson County Police Department, the Kentucky State Police and the Louisville Police Department to set up the one-week, 40-hour course. The program is now offered three times a year.

In addition to preparing a videotaped news program, participants review police-media relations and the historic problems of dealing with the media, tour television and radio stations in the Louisville or Cincinnati area, study fair trial and free press guidelines and write their own news releases.

Public information officers instruct the participants in methods for dealing with news reporters at the scene of a disaster or crisis, including hostage situations.

But it has been the videotaped exercise that has proved to be the most helpful in many cases, according to Roy Crouch, assistant director of the training bureau's Law Enforcement Training Division.

"Most of them never had the opportunity to see themselves before," Crouch said. "They begin to play the role of a media reporter and learn not to shut off the media."

## Feds claim some success in anti-drug war

Continued from Page 1

to the drug enforcement effort was "not easy" since no additional resources were forthcoming for the agency.

Turning his attention to the international scene, the FBI director said that the ambassadors to the U.S. from Colombia and Bolivia have begun to offer signs of assurance that their countries will more actively participate in reducing the flow of drugs. He quickly added, however, that the ambassadors have generally insisted on "certain quid pro quos" in exchange for their countries' help, including agricultural support, technological assistance and military hardware from the United States.

(The prevailing sentiment among many of those attending the Washington gathering — and one backed by DEA chief Mullen — was that the U.S. should cut back, or cut off foreign-aid funds to drug-producing countries if they do not cooperate in the fight against narcotics. Mullen indicated that State Department officials have already communicated this possibility to a number of foreign governments.)

FBI director Webster, responding to criticisms that the bureau's relations with local police agencies have been one-sided in the past, said that such charges "concern me," and he assured police chiefs that "we will see more of you as a result of our involvement with drugs."

"We simply cannot become extra bodies on the street, but we will work with you," Webster said.

The Federal officials' reassurances to the local chiefs came at the same time as bankers and economists in the Miami area were reporting a significant shift in the nature of banking transactions in South Florida. A recent New York Times dispatch cited a report from the Federal Reserve Bank in Miami that said cash deposits for the first two months of this year decreased by 14.2 percent from the level during the same period in 1981. For the past three years, Miami banks have chalked up an increase of 20 percent a year in cash deposits over withdrawals.

The dearth of drug money, which is estimated to make up 20 percent or more of the region's economic base, might have broader consequences, according to a Miami newspaper official. John McMullan, executive editor of the Miami Herald, recently told a group of savings and loan officials, "One member of the Bush task force remarked off the record, 'Look, we're going to clean up your crime, but you should understand that when we do, Dade County is going to be in for a hell of a recession.'"

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## The search for a valid performance-evaluation system

Continued from Page 1

evaluation, intuitive evaluation can be abused. The personal prejudices of officers can affect the results of evaluations. Officers are not always aware of what was expected of them in the type of system, everyone sees they "know" who the good cops are. Overall, the performance-evaluation system is used to rubber-stamp the subjective views of supervisors and line personnel. Categories for evaluation tend to be general and easily manipulated.

With the advent of the Uniform Crime Reports and improved data collection, we began to measure the "activity" generated by officers. This approach essentially takes the overall activity statistics for a police agency and traces the activity back to individuals. This type of system ignores the complexities of the criminal justice process and tends to generate distortions in the performance of officers.

The complexity of the criminal justice process has continuously confounded our ability to collect data on case processing. In order to measure whether police activity really leads to criminals going to jail, court records need to be added to police arrest data. Even today, the problem of obtaining dispositions on cases is severe in some states. In cases when such data are available, it becomes hard to attribute convictions to police activity rather than the work of prosecutors and witnesses. In general, we are not sure whether we know what overall department-activity statistics mean, let alone translating that into individual officer performance measurement.

The distortions in the performance of officers under this type of system result when too much emphasis is placed upon generating activity statistics. Some officers refer to this reliance on activity statistics as "bean counting" and they quickly learn how to "look good." If a given number of arrests, field interviews or tickets are expected of officers, many will find a way to generate that activity. Officers that are honest about the activity they generate may even be rated lower than those who learn to "work the system." These numbers then begin to represent activity that may contribute little to the quality of the officer's performance. Low quality arrests and pointless field interviews can actually waste police resources and divert the department from accomplishing its mission. In short, this approach confuses performance evaluation with productivity measurement.

In more recent years police departments have turned to the Behaviorally Anchored Rating System (BARS) as an alternative to intuitive and activity-based systems. Basically, this approach uses officer surveys and/or committees to reach agreement on the traits of a "good cop" in a given department. A scale of performance levels is then developed for each trait. These scales identify specific types of behavior for various levels of performance.

Experience has shown that BARS is not a flawless system. Validation studies designed to determine whether these traits and scales are applied effectively have identified problems with some BARS efforts. For example, "halo" error results when supervisors rate personnel lower or higher across all traits because the supervisor feels that the officer is either low or high on one specific trait. Most of these types of problems result from a lack of training or motivation among the supervisors rating their subordinates.

Many experiments of individual systems have been just one of the problems that have led to the adoption of subjective performance evaluation systems like BARS. The need for more "work" by better managing human resources has also prodded police departments in the direction of using performance evaluation as a constructive tool to improve officer performance. Over the years, performance evaluation in traditional departments has been used to dole out punishment, implying that fear motivation can improve performance. In ICAP cities, fear motivation is being replaced by a more rational approach to motivation, innovation and leadership.

### Performance Evaluation under ICAP?

If one phrase could be used to describe how the duties of police personnel change as the result of ICAP, it would be "expanded decision making." Traditional police agencies avoid management decisions by processing all calls for service and investigations with the same response. Rather than measuring the numbers of calls or cases processed, chiefs in ICAP cities are more interested in the quality of the decisions personnel make as to how work is to be processed.

These decisions are crucial to the ICAP process because resources are applied to cases based on those decisions. For example, if a department uses patrol officers to conduct preliminary investigations and make decisions on case status, police

managers need to know how patrol officers are making those kinds of decisions. Patrol officers need to demonstrate the ability to collect information from victims at scenes of preliminary investigations and determine whether evidence technicians or investigators need to be called. Traditional evaluation systems focus more on issues like attendance, appearance and grammar on reports rather than on these now important decisions.

Decision-making also plays an important role in organizational improvement, with ICAP departments encouraging officers to participate in the management process. Officers that take the initiative to identify more efficient or effective ways to do things should be recognized during the course of performance evaluation. In traditional departments, evaluation systems may be designed to punish people who are labeled "boat rockers" rather than rewarding them for participation.

Finally, ICAP departments recognize that setting goals and working toward their achievement is the most constructive way to improve both individual and organizational performance. Ultimately, it is commitment to these and other goals that directs the activity of officers in ICAP cities. Because many ICAP sites use one-man patrol cars and because first-line police supervision is not of the "assembly line" variety, goals chosen by line personnel can have powerful effects

on changing the way police departments operate.

### Three ICAP Experiences

The three performance evaluation systems discussed below were implemented by cities in the Tidewater area of southeastern Virginia. While all three systems use a variation on the BARS approach, each was implemented in different sized departments, each was implemented differently, and each is used for different purposes.

Norfolk Police Department. Norfolk began the development of its present performance system for its 500-plus sworn personnel during its second ICAP grant period in 1978. ICAP funds were used to contract with Old Dominion University's Performance Assessment Laboratory to develop the system from the ground up.

Officers were surveyed to identify critical job dimensions for the various types of duties performed by patrol officers, and survey questions were used to determine officers' views as to who should rate the performance of line personnel, supervisors and upper-level managers. Officers were also asked whether the evaluation system should be used for decisions on job assignments, salary adjustments, feedback to patrolmen, promotions, special recognition, reprimands or dismissals. Another set of survey questions focused on the organizational climate in the department

Continued on Page 10

## Facing problems with fuel budgets, public image, more departments putting officers on horseback

In Boston, Patrolman Michael Connolly and his partner have been together since 1969. They've been through anti-war demonstrations, busing riots and hundreds of quiet days on patrol.

But the memory that sticks with Connolly is the look of pleasure on the faces of crippled children when he and his partner — a horse named Christopher — visit their school and give them rides on Christopher.

"These kids don't have too much in life," Connolly said. "It does my heart good to see their smiles."

Those smiles are among the many reasons why more and more big-city police departments across the country are putting police officers on horseback. Police officials say the mounted patrols seem to bring out the friendly side in people and enhance the police image in the community.

Authorities say mounted patrols are also effective in patrolling busy pedestrian and downtown business areas, giving officers a perfect vantage point for overseeing crowds and enabling them to monitor parades and other large gatherings where cars just won't fit.

The Los Angeles Times reported recently that 82 departments in the United States now operate regular mounted patrols, about one-fourth of them in use for the first time.

In California alone, San Jose, Oakland, Los Angeles and San Francisco recently started or expanded mounted patrols.

San Jose police credit the mounted patrols with preventing violence between Ku Klux Klan members and anti-Klan factions at a recent rally, and in San Francisco officers on horseback controlled large crowds celebrating the 49ers' football championship.

The increased use of horseback patrols



Wide World Photo

In this LEN file photo, Chicago police officer Gillian McLaughlin and her partner Linko patrol the city's Lincoln Park. In 1975, Officer McLaughlin became Chicago's first woman on the mounted squad.

isn't confined to California, though. Deep in the heart of Texas, the Dallas Police Department recently completed a two-week test of mounted patrols and plans

to allot money for a regular patrol in the coming fiscal year.

The Dallas department found horses to

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# On the firing line in Indiana

## An interview with Chief Gerald Loudermilk of the Terre Haute Police Department

LEN: You've received a lot of national publicity for your so-called "shoot to kill" order, the revision of the deadly force policy that says you will back up officers who shoot at fleeing felons. How has that affected you?

LOUDERMILK: I don't think it has. When we did it, we had a two-fold purpose in doing it. At the time that we made our change — which was very, very slight from the old policy — we had had a rash of armed robberies, with a lot of assaults going on with it. In other words, they were getting to the point where they were shooting in the ceiling, shooting in the floor, pistol-whipping bartenders behind the bar. We had a group of individuals that would more or less average one, possibly two a week. And right along there we had a terrific rash of house break-ins. One particular instance really started us thinking. After we found the pattern that they were operating, their method of operating, we had a couple of policemen stake the situation out. This particular rash of burglaries happened during highly publicized weddings, and either the bride's house or the groom's house or their folks' houses were getting broken into. We started putting our people in these houses, and, lo and behold, it happened. An individual walked through the front door — as a matter of fact, he surprised the policemen who were in there to make an apprehension. They jumped up and hollered, "Halt, police" and he took off running. About five feet from where he took off he dropped a fully loaded gun. So when I had the officers in, my first question was "Why didn't you shoot him?" You had the classic example of a fleeing felon and the state statutes of Indiana say you can use your weapon on a fleeing felon. The only answer I could get from the senior officer — who incidentally happened to be our shooting instructor and probably the best shot in the department — was that, well, he didn't know, number one, what public reaction would be, number two, would we get sued, number three, how myself and the administration felt about it.

We got to thinking that if we had officers having to think before they drew their weapons, we were going to end up with a dead policeman. This we did not want, so that along with probably trying to get a message over to the criminal element that they stand a chance of getting their rear end shot off, we made a couple of slight changes in the policy. We didn't do it for New York or Chicago or Indianapolis or anything else, we did it for the city of Terre Haute. That's where it all started from.

The media tagged it the "shoot-to-kill" policy. At no time did we ever say that. There is one paragraph in our deadly force policy which probably they got the "shoot-to-kill" from, which reads something like, "Shooting to warn or shooting to wound has no place in effective police work." Probably that paragraph is where they got their "shoot-to-kill" policy.

We actually believe that. We do not shoot warning shots. As far as we're concerned, shooting a fleeing

felon, somebody running, and hitting them in the foot or in the leg or in the arm, you see that on television but you don't see it in real life. That's one of the slight changes we made.

LEN: Were you surprised by the extent of the publicity?

LOUDERMILK: Yes, I was. Like I say, basically we didn't do it for any city other than our city and the thing that really surprised me more than anything else was the reaction we got from what I would call the run-of-the-mill person in the United States. I think they're fed up with the crime situation, I think they're fed up with the work situation, I think they're fed up with slapping them on the hand and turning them loose to do the same thing again. I think the pendulum is swinging back toward law enforcement instead of the criminal. In other words, I think it's coming back to the victim now.

I don't know how many letters we've received from all over the country and I can only recall two that were definitely against the policy. One of them was from a female college student who apparently commuted from Vincennes, which is approximately 50 miles south of us, to our local college here, Indiana State University, who feared for her life driving through Terre Haute to get to school. The second one was from an inmate at the Federal penitentiary about three miles south of us here, who had fear for his life that he might get shot while he's out jogging some morning. If they're turning the trustees out to jog of a morning, I thought that was quite humorous.

LEN: Do you think the publicity has affected the department?

LOUDERMILK: No, I think the policy itself kind of had a tendency to clear their minds on the fact that if they ever have to face the fact they're going to have to use their weapons, they're going to be supported by myself and by the administration and this was a big relief to them. We have had no — not one — gun

LOUDERMILK: I think it's pretty good. The only people as far as I'm concerned that would frown on what we did and what we're doing is the criminal element. I know I received threats over the phone and one thing or another, but I'm sure it's not the honest, tax-paying citizen out here that's doing it. It has to be the criminal element. Basically, that would be the complaints that we're getting, probably from the criminal element, but we're not getting that many.

LEN: You have said in other interviews that Terre Haute once had a reputation as "Sin City." Is that image changing?

LOUDERMILK: We would hope so. Basically, the mayor that we have now is probably, in my opinion, one of the most honest, God-fearing people that we've ever had in that office. He's a family man, attends church regularly and he does not either drink or smoke. He knows very much on gambling, prostitution and so forth, where some of our past administrations knew it was there and overlooked it, or possibly, going back further, could have been, not what you call involved in it, but I know there's been a lot of accusations, rumors and so forth. Now I'm talking about 15-20 years ago, where some of the locals actually received money from this sort of operation. The previous mayor, 10 years ago now, the first day he took office he invited me in. At the time I was assistant chief of police under his administration, and prostitution was terrible, and armed robbery. He wanted them down and wanted them to stay down. We've had them down since then. Back 20 years ago, there were plenty of houses of prostitution in here and that's where the name of Sin City came from. The past two administrations have tried extra hard to change that image and delete the name of Sin City. It's terrible.

LEN: Do you think the revision in the deadly force policy will help erase that image?

LOUDERMILK: I would hope so. We get people coming

**"...Along with trying to get a message to the criminal element that they stand a chance of getting their rear end shot off, we made a couple slight changes in the policy."**

discharged since the change and all the publicity. They may be shooting at animals, but no shots have been fired at any individual.

I contended when we did it that the police officers they have today are probably the best trained people they've had on the street for a long time, I know I feel that the big difference in the 20-some-odd years I've been on the force is I can remember when it was strictly political to get the job and you had to pass your political hurdles to get it. You passed your physical, they sent you down to the local department store and outfitted you, gave you a gun and pinned a badge on your chest and said you're a policeman. You worked with an older man and if you worked with a good old man you were broke in right, but if you worked with a bad old man, you broke in wrong. You learned what I call the school of hard knocks, or the hard way. I think I was on something like three years before I got any official schooling. Now, you have to go to a 12-week basic police enforcement in Plainfield, Indiana. You're there, you get to come home on weekends and you get a very good training. We didn't have that back when I came on.

So the individuals we've got are psychologically tested, with a polygraph and a thorough investigation. We're getting, for the salaries we pay now, what I call the prime people we can get for that kind of money. And with the training they're getting, I think we're getting the best we can possibly get. So I think that means a little bit too.

LEN: Do you think the department has gotten a tougher reputation in the city since the order?

LOUDERMILK: No, I don't think so. The number of complaints hasn't increased or decreased any. I can tell you one thing, when they throw a set of lights on them [drivers] out here at night, they curb it real quick. They don't hesitate about stopping.

LEN: What is the department's public image generally?

in looking at plant sites and one thing or another and they seem to think that we're on the move and they rather like the idea. Again, these are honest, tax-paying people, they're not the criminal element.

LEN: A few months ago you reported a 13 percent drop in crime since the deadly force policy. Is that figure still correct?

LOUDERMILK: It's actually 12.8 percent.

LEN: Is that directly due to the changes in the deadly force policy?

LOUDERMILK: Well, we would like to think possibly that that helped, but, again, we've got a young department and we've got a lot of good officers and I think the change in the policy brought the morale up. We like to think also that we've got a good hard-working bunch. So I wouldn't say that particular one aspect automatically dropped crime 12.8 percent, but I think it helped to get my people out on the street and doing the job that they're paid to do. We do have a young, energetic, hard-working department.

LEN: The Vigo County prosecutor says crime has decreased because of an increase in felony convictions. Do you think that's part of it as well?

LOUDERMILK: Oh, yes, that would help too. You've got to remember that we've got to have a damn good case to take over to that prosecutor before he can get a conviction on it. So one leads to the other.

LEN: Do you think the decrease in crime will last after publicity over the new policy fades?

LOUDERMILK: I don't know. We're not going to change it. The only way we're going to change our policy is if we have to do it by state statute, which I hope does not happen. The past two sessions in Indianapolis, we've had attempts to change it. Not the last session, but the session before last, the Civil Liberties Union was in there trying to change it so the only way a policeman could use his weapon was to be shot at first. I guess in a

*Gerald Loudermilk was appointed Chief of the Terre Haute, Ind., Police Department on January 1, 1980. A year later, he issued a revised policy on the use of deadly force, which national newspaper and television reporters labeled the "shoot-to-kill" policy, giving it extensive coverage.*

*The controversy having abated somewhat, Loudermilk, 51, has been able to settle back into the life of a police chief in charge of a force of 121 officers. He has served with the Terre Haute PD for 21 years, his career checkered with politically motivated promotions and demotions. He once rose to the rank of lieutenant when a Democrat became mayor, only to become a patrolman again when the Republicans regained the mayor's seat. In 1972, he became a captain by merit, a rank that he cannot lose in political turnovers.*

*A life-long resident of Terre Haute, he retains the demeanor of a time-toughened beat cop. "Probably my background is on the streets," he said recently, summing up his career, "because I was never nothing but a street cop."*

*This interview was conducted for Law Enforcement News by Linda Sanders.*



# Indiana

## Terre Haute Police Department

situation, like that if you're a policeman, you just hope and pray that the criminal shooting at you is a bad shot. Last year, we had some of the Indianapolis representatives, because of the shootings they've had over there by police, make a pretty good attempt to change it. However, both failed. I look for it again this next session, but I would hope that it's not changed.

LEN: Why did the first two attempts to change the statute fail?

LOUDERMILK: Lack of support. There was a pretty good argument for it, but there were more of them over there against it. It just went down the drain. As a matter of fact, the bill that the Civil Liberties Union authored, I don't think it even got to the floor.

LEN: Do you think a third attempt would pass?

LOUDERMILK: No, not at this time. Because I think the mood of the people is getting back to the victim of the crime instead of everything for the criminal. I heard a statement the other day, I think it had to do with undercover officers and drugs. People talking about one particular case where he had made two or three controlled buys off an individual. He got him into court and he made the comment that everybody in that courtroom, the judge and the jury, knew that guy violated the law, that the guy sold narcotics to an undercover police officer. The whole trial is based on did they violate any of that individual's rights in making the arrest and bringing him into court. As far as I'm concerned, a criminal has no rights. He gave them up when he turned to the life of crime. That's just the way we feel here.

LEN: And you think public sentiment is beginning to sway in that direction?

LOUDERMILK: I do, definitely.

LEN: The new deadly-force order says officers can shoot to capture suspects they have "reasonable cause" to believe have committed a felony. What does reasonable cause entail here?

LOUDERMILK: Our state statute says just that: reasonable cause to believe. An officer can use deadly force when he has reasonable cause to believe that the guy is a fleeing felon.

LEN: How do you establish what is reasonable cause?

LOUDERMILK: Well, in the case we just named, them guys were sitting in there waiting on somebody to break into that house and it happened. Now if that's not reasonable cause, I don't know what you'd call it.

LEN: But the cases aren't always that clear. For instance, if the officers had been called to a burglary in progress and saw someone running away from the scene when they arrived, would that be "reasonable cause"?

LOUDERMILK: You could throw hypothetical questions like that at me all day long. The way I answer them questions is you're like a Monday morning quarterback that watches a game on Sunday and on Monday you say if the quarterback had passed more or less he'd let go and so run more, we'd have won the ballgame. You can't base an answer on a question; you have to be there and face it. That's where your young, well-trained officers come in. I'm sure that if they walk in on a burglary or are called in on a burglary in progress, and see a 12-year-old kid running across the yard, they're not going to pull their gun and shoot him.

LEN: So you've left it up to the individual officers to determine what constitutes reasonable cause?

LOUDERMILK: Sure. I can't sit here in my office and tell that officer that next week he's going to get a burglary call and an 11-year-old kid's going to be running around the corner and for the officer to shoot him. You have to look at each individual case differently, in my opinion.

LEN: Does the directive apply equally to off-duty and plainclothes officers?

LOUDERMILK: Yes.

LEN: Are there any circumstances that have been established as exceptions to the order?

LOUDERMILK: No.

LEN: You have said that one of the things that led up to the new directive was the shooting deaths of three officers in Marion County, Ind. Have you had to deal with fatalities within your own department?

LOUDERMILK: My people, no. I think that [the shooting deaths] was what spurred your represen-

tatives from Marion County in the last session because of the recent shootings they had over there, both their criminals and their police officers.

LEN: Critics say the directive takes away a suspect's right to due process and right to life. How do you answer that criticism?

LOUDERMILK: I just ask them what rights. If they've turned to a life of crime, as far as I'm concerned they have no rights. The sooner the American people figure it that way, the sooner we're going to get rid of the crime situation we've got. There's been too much emphasis in the past 10 or 15 years on the rights of the criminal. He has none.

LEN: But aren't we talking about suspects here, not convicted criminals?

LOUDERMILK: We're not out here shooting suspects. But if he's pulled a crime and he's a fleeing felon, then he's fair game, according to the Indiana state statute. We will operate that way until they change it. Probably the only mistake we made was the publicity. We feel that, like I said before, we did it for this city and I don't care what affect it has on any other city. It's working here, we think.

LEN: The Indiana Civil Liberties Union has suggested that police should be instructed to shoot only when the suspect poses a threat to them or to bystanders. How would that guideline affect law enforcement in Terre Haute?

LOUDERMILK: I don't know. I don't think it would help in Terre Haute or anyplace else.

LEN: Would it hinder you?

LOUDERMILK: Yes. They've had us handcuffed for how many years? You stop to think. If they catch an individual in the act out here and bring him in, all the reports you can think of they've got to write. The first thing they've got to tell that guy is that you can have an

**"As far as I'm concerned, a criminal has no rights. He gave them up when he turned to the life of crime. That's just the way we feel here."**

attorney and if you say anything it can be held against you in court. Now that's some of your laws and civil rights and one thing and another. That's the Miranda decision. From that point down, it's been nothing but hindrance to law enforcement. These decisions sure in heck haven't helped us any.

LEN: Are you saying that the Miranda decision hinders you?

LOUDERMILK: As far as I'm concerned, all those decisions have hindered us.

LEN: Would you do away with them?

LOUDERMILK: We've had to work around them. You can get a conviction and get it thrown out on a technicality. That's what's the matter with the country right now. There's too many running free that have been thrown out on technicalities. Take them to prison and they get themselves a jailhouse lawyer and pretty soon they're out again.

LEN: Do you think the Miranda decision should be reversed?

LOUDERMILK: Personally I think a lot of them should be reversed.

LEN: What about Miranda in particular?

LOUDERMILK: You know, it's tough to get out here and catch these burglars in the first place. Then when you've got to turn around and tell them if they confess to it or admit that they did it or anything like that, without reading them their rights, you might as well open the door and turn them loose, because you've blown it in court. If he says, "The hell with you, I ain't going to tell you nothing," then what you do? You've got to build your case around what you saw and one thing and another and take him into court, keep him in jail for X-amount of time and take him into court and spend the taxpayers' money and you know damn good and well he's guilty, because you caught him in the place, but look at the money you're wasting.

LEN: Can't you build the case on what you saw?

LOUDERMILK: But suppose you fail to give him his



rights? That one little technicality, you didn't give him his rights. They throw it out. It's a bunch of bull.

LEN: Critics also have charged that the deadly-force directive indicates a generally permissive attitude toward officers' use of force. Do you think that is a fair statement?

LOUDERMILK: No, I don't. I know I don't have one. You see, my officer operates under the state statute. As long as they continue to operate under the state statute, they've got my approval. It's hard for somebody in another state or tied in with another department to understand, because their hands are tied.

LEN: What are the chances of a wrongful death suit being brought against the department when there is a fatal shooting as a result of the order?

LOUDERMILK: I'd say they're damn good right now with our change in our policy. I would imagine you've got 10 or 15 shyster lawyers just sitting back waiting on something like that.

LEN: Do you think such a suit could be successful?

LOUDERMILK: I don't know. We've got to face that if and when it ever comes around.

LEN: Are there any legal precedents for a suit like that?

LOUDERMILK: I think that action probably started around 10 or 12 years ago where policemen and departments started getting sued for shootings. It kind of simmered down a little bit. We've been fortunate here, we've not had to go through any of that. We thought about this when we were talking about changing the policy, if we did have a shooting, what the consequences would be. But fortunately we've not had any and if we do, we'll be ready.

LEN: Do you know whether any other departments have issued similar orders since yours?

LOUDERMILK: Basically, my policy is probably the same as the majority of the departments in Indiana. I know Evansville's and ours are very much the same. The only thing is this one got the publicity; their's didn't.

LEN: Do you think that kind of policy can be effective without publicity?

LOUDERMILK: I don't know how to answer that. Like I said, here it was two-fold. We wanted to let the criminals know it, too, besides our people. I don't know about any other town. I don't know if it'd have been as effective without the publicity here locally.

LEN: You said earlier that you don't want your people to have to stop and think before drawing their weapons. Do you think there's a danger of officers becoming too trigger-happy if they don't hesitate a moment and think about what they're doing?

LOUDERMILK: There again, it would be hard for me to sit back and think about that. If one of my officers is facing a man with a gun, who am I to sit back and say, you should do this or you should do that? If the guy's got a gun and you think your life's in danger or somebody else's is, I say pull yours and use it.

LEN: You were quoted in the Chicago Tribune as saying you think everyone should own a gun and carry it. Why do you think that would cut down on crime?

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# The Tidewater experience in officer evaluation

Continued from Page 7

and officers' views on how a performance evaluation system would be applied by the department's command staff.

As a result of this survey phase and a series of meetings with small groups of officers, a set of traits was developed to be used with forced-choice responses. The ODU researchers administered several versions of these forced choice questions to test their reliability and validity.

Along with these forced-choice questions, the department developed a "critical incident" report that identifies a specific incident reflecting an example of either positive or negative performance. Recently, a goal-setting section was added to this form so that officers and their supervisors agree on and document goals each officer will attempt to reach over each six-month period between evaluation sessions. This goal-setting process was added to improve the level of feedback officers receive from their supervisors when the results of evaluations are reviewed with each individual officer.

The Norfolk system is used only to provide officers with systematic feedback on their performance. The department's command staff accepted patrol officers' preference that no personnel decisions be made using the results of these evaluations. The present system provides, as the department's Supervisor's Manual states, "a vehicle for clarifying performance expectations, facilitating supervisor/subordinate job performance and, ultimately, improving overall department performance."

Unlike some traditional departments that have used the same system for many years, Norfolk's developmental approach recognizes that the performance evaluation system should be reviewed regularly. As a result, changes are made so that the system reflects current department activities and the demands placed upon

officers.

Portsmouth Police Department. The approach used in 1979 to implement the Portsmouth performance-evaluation system was to build upon work done by other departments. It was found that a system in use in Tulsa, Okla., that employed a BARS approach could be modified to allow Portsmouth to evaluate its 200 sworn personnel.

A consultant from Tulsa was brought to Portsmouth to train supervisory personnel in skill areas that would be needed to implement the system. Input was solicited from line personnel on adjustments that needed to be made to adapt the Tulsa system to fit the duties performed by Portsmouth's officers.

As the system was implemented, the department saw the need to better track the performance of supervisors as evaluators. In February 1980, the rating history of each supervisor was analyzed using the Statistical Package for the Social Sciences (SPSS). Printouts were used to help individual raters to compare their rating style and judgments with those of other supervisors in the department.

Unlike Norfolk, Portsmouth evaluates its officers every twelve months rather than every six, and uses fewer sets of traits to identify different kinds of work performed by line officers. Portsmouth also uses performance evaluation for more than just providing feedback to officers on their performance. Information from performance evaluations is used as part of the promotional process and as a basis for transfers.

In Portsmouth, performance evaluations are clearly viewed as a management tool. Chief E. Ronald Boone summed up his view of the importance of performance evaluation in an April 1979 departmental memo:

"The biggest proportion of this department's budget (78 percent) is for personnel and is the most expensive resource that you as supervisors have to manage."

Virginia Beach Police Department. The new performance evaluation system in Virginia Beach was developed as a result of a decision made by the city government to change the basis used to award merit increases. Each city department was mandated to develop a BARS performance evaluation that would be used to award merit raises. Rather than receiving a 5 percent annual merit increase based upon a subjective performance review, officers would be eligible for no raise, a 2½ percent, 5 percent or 7½ percent raise based upon the new, more rigorous evaluation system.

In 1979, when Virginia Beach obtained its first ICAP grant, the process of expanding the role of line officers began. These new roles and responsibilities were incorporated into the new performance evaluation system for the department's 400 or so sworn personnel. A consultant hired by the city helped a police department task force to conduct a job analysis and identify the performance traits and standards for the system. Participation and input from line personnel was sought through surveys and work conducted by the task force.

Along with applying performance evaluation to decisions on merit increases, the department also uses performance-evaluation results as part of its promotional system. Prior to ICAP, officers were only evaluated when merit increases were to be considered. With the advent of the BARS performance-evaluation system, all personnel are evaluated annually.

## Implementation Problems

Despite the best planning efforts, the process of developing a new performance-evaluation system naturally leads to some problems. The questions that need to be asked as part of the implementation process can be very unsettling for an organization and for those individuals working in it. ICAP cities may be better prepared to deal with these problems for a variety of reasons. ICAP cities usually have more clearly defined the roles and responsibilities of line personnel, and supervisors are trained to think more like first-line managers than shift foremen. ICAP cities also usually use participatory methods to implement components of the program. This participatory approach calls for the sharing of information with line personnel. This process does not tend to generate the kind of anxiety and resistance to results when fear motivation is used to implement change. Trust and communication can help improve the chances that the new system will be accepted by the department's personnel. Without that acceptance, the system will produce results that some officers will attempt to discredit. Supervisors who want to subvert the system can do so through the approach they take to rating their subordinates.

Another implementation concern besides participation is the need for supervisory training. Supervisors need to be given information that will help them to understand and apply the system. They need to know how the system works, what their role is and how the results of the evaluation process can be used to improve the performance of line personnel. Supervisors will need instructions in skills that help them face that particularly difficult moment when they must meet with officers to inform them of the results of their evaluation. The whole purpose behind a new performance evaluation system can be lost if supervisors cannot make the evaluation process constructive. Third-party contractors can provide this training as well as provide technical assistance for the development of performance traits and

standards.

Finally, chiefs of police must be committed to the process of changing the department's evaluation and reward structure. They must be capable of dealing with the organizational fallout that results from implementing innovative management techniques, for without a clear signal from a chief that the purpose of a new performance evaluations system will be a constructive one, the system will founder in a sea of griping and general discontent.

## Validation of Evaluation Systems

It is inevitable that performance-evaluation systems will be challenged when they are used for decisions like pay increases, promotions or dismissals. Such systems are more defensible when departments have evidence of their validity and reliability.

Validity, we mean that standards or rating scales must be job-related and can be verified by information gained through analyses of tasks performed by officers. Validity is more likely to be threatened by various types of rater errors. Halo effect, discussed earlier, is just one type of error that should be detected and minimized. Central tendency error also can take place when supervisors essentially rate everyone as "average" performers in the middle of all rating scales. Other types of errors can come from the myriad of biases that are common to the human condition. The point here is that if a department is to have a defensible system, it needs systematically to collect information on rater error and on the biases that can invalidate ratings. Personnel commitment that comes from participation in the development of the system and an understanding of its operation can go a long way toward minimizing these rating errors.

The management style that characterizes ICAP cities complements the development of new performance-evaluation systems. Over the long term, these systems will help police managers to institutionalize the new performance standards and values that are inherent in the systematic approach to policing that is ICAP.

## About the Author:

PETER BELLMIO is director of the Urban Research and Service Center at Old Dominion University in Norfolk, Va. A former director of planning and research for the Newburgh, N.Y., Police Department, he has been associated with ICAP since its beginning in 1976, when he served as its project director in Newburgh, and later as ICAP



program manager for the Virginia Beach, Va., Police Department. He has also served as a consultant to numerous police agencies on management improvement projects.

In his current post, he serves as a broker between the resources at ODU and the needs of the urban community in the Tidewater area of Virginia.

## US parole board eases access to data for local police agencies

Police agencies will soon find it easier to obtain the names of Federal parolees who move into their area, thanks to a new U.S. Parole Commission rule.

The commission handed down the new rule after law enforcement officials in Sacramento, Calif., complained that the commission would not give them the names of Federal parolees in their area, according to a report from the Los Angeles Times.

Under the new rule, information about Federal parolees may be turned over to local officials "as required for the protection of the public or the enforcement of the conditions of parole."

The old rule allowed the release of such information only as required by law or as authorized by the commission.

The commission's chairman, Benjamin F. Baer, said the action was designed to "facilitate cooperation between parole authorities and law enforcement officials."

The rule change reportedly came in response to legislation introduced by two Democratic Congressmen from the Sacramento area, Reps. Vic Fazio and

Robert Matsui, that would require the parole commission and Bureau of Prisons to release parolees' names.

In addition to permitting the release of parolees' names to law enforcement officials, the new rule would allow the information to be given to "persons who might be exposed to harm through contact with certain parolees."

Release of information to persons in danger from the parolees was previously permitted only with the approval of a parole commission member.

According to the Los Angeles Times report, some civil liberties activists are concerned about the rule change. Al Bronstein, executive director of the American Civil Liberties Union's prison project, said he was concerned that the change could become "a vehicle for harassment of people on parole and an unnecessary invasion of their privacy."

But Bronstein said the rule change is less troubling than Fazio's bill, which would require some parolees, including those released to halfway houses, to waive their right against a search of their person or property without a warrant.



# CRIMINAL JUSTICE LIBRARY

We read and review:

## Corrections book an interesting memoir, but...

**Prisons and Politics.** By Richard A. McGee. Lexington, Mass.: Lexington Books, 1981. 161 pp.

Richard McGee certainly has an important place in modern American correctional history, partly because of some interesting things he has written, but mostly because of what he did in 23 years as California's top correctional administrator.

To some, this is perhaps an unattractive feature of this book. During McGee's tenure, California was a leader in attempts to professionalize the correctional service, in attempts to humanize

the incarcerative experience, in experimentation and trial and error, and in the development of base line statistics and evaluation of correctional programs. As a result, one all too often gets the impression that a prerequisite for publishing a book on corrections is that it be about, or be an analysis of California's experience.

Yet the most crying need in correctional literature is not another book tied to the specific problems and experiences of California's prisons. A book on corrections in Massachusetts, Indiana or Texas, and how it differs from the

literature on California would be much more interesting at this point.

Further, the exact point of this book is still somewhat unclear. McGee certainly wishes to pass along some of his expertise in running a major correctional agency to a future generation of administrators, so they might avoid the ignorance and naivete he had when assuming his post. The market here would, it seems, be rather small. Few of us have reasonable hopes of becoming commissioners of corrections in the near future.

Thus, part of the purpose of this book is to serve as McGee's memoirs. It is filled with anecdotes and interesting little things McGee said to someone or another over the years, the point of which all too often escapes this reviewer.

The second half of the book, however, begins to deal with important unresolved issues in institutional corrections, and gets progressively better as it goes along.

Perhaps the major lesson McGee wishes to impart in the memoirs section is that a top administrator must not only be a corrections expert and a good administrator, but also in part a politician. His respect for legislators is not particularly high, and some of his experiences with legislative hearings should be particularly useful to administrators with little political experience.

It should not come as a major surprise,

but no doubt will to many, that important legislative initiatives on corrections can be passed or defeated based on personal relationships, the long-windedness of witnesses, the timing of requests, and the quality and quantity of citizen-group pressure. To the practical-minded, McGee's exposition and experience in this field should be much more interesting than a reading of the political science literature of multiple regression or discriminate analysis and mathematical examinations of voting behavior by legislators.

Of course, as in any memoirs, the opportunity is given to McGee to at least subtly let us know what a pain Clinton Duffy could be at times, or how Pierre Salinger was rather naive when he was a reporter for the San Francisco Chronicle.

As contributions to the literature, however, prison memoirs have rarely been particularly useful. There are already dozens of books on the market written by wardens, inmates, guards and counselors, which, although remarkably alike, are occasionally interesting to historians for insight into a particular decision-maker's thought processes, or to those who like gossip if they happen to know the principals involved. McGee has seriously attempted to rise above the typical effort, by choosing the theme of politics and by analyzing the roles and

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## Third edition of law enforcement text broadens its CJ focus

**Principles of Law Enforcement: An Overview of the Criminal Justice System.** 3d Edition. By Edward Eldefonso, Alan R. Coffey and Richard C. Grace. New York, N.Y.: John Wiley & Sons, 1982. 373 pp. \$19.95.

In this third edition of "Principles of Law Enforcement," some substantial changes in the format and text of this edition have warranted the subtitle, "An Overview of the Criminal Justice System."

Since the criminal justice system in the

United States is basically composed of the police, courts and corrections, the authors believed, and rightfully so, that one element of the system should not be isolated and studied alone. Realizing that the purpose of the whole system is to eliminate the problem of crime in the United States, it is important for each component of the system to understand its relative position and the philosophies, policies and problems inherent in each segment. Such comprehension can afford an opportunity for the system to work more efficiently and effectively toward its ultimate goal.

With the above idea in mind, "Principles of Law Enforcement" presents an integration of the three elements with, of course, maximum emphasis on the law enforcement aspect, but also a more than adequate discussion of the courts and corrections.

At the end of each chapter is a thorough summary of the subject matter, as well as annotated references and footnotes, where appropriate, to permit further research by the reader into specific areas of interest.

One of the last chapters in this book, entitled "The Future," was particularly interesting, and there appears to be a definite move in the direction of many of the authors' "predictions," especially in the area of funding cutbacks and determinate sentencing.

Three appendices contain complete biographical sketches of leaders in law enforcement (i.e. Sir Robert Peel, J. Edgar Hoover, O.W. Wilson, etc.), in jurisprudence (i.e. John Jay, Oliver Wendell Holmes, Felix Frankfurter, etc.), and in corrections (i.e. John Howard, John Augustus, Austin McCormick, etc.). A fourth appendix enumerates various U.S. Supreme Court decisions which are vital to law enforcement, such as *Escobedo v. Illinois*, *Mapp v. Ohio* and *Miranda v. Arizona*. Each case is presented in sufficient detail to allow the reader to clearly see the facts, issues, considerations and impact of the decision on the law enforcement community.

For an introductory course in law enforcement or criminal justice, "Principles of Law Enforcement" furnishes the necessary information.

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## 'Defining' the basics of administration

**Police Organization and Administration.** By Sam S. Souryal. New York, N.Y.: Harcourt Brace Jovanovich, 1981. 150 pp.

The study of police organization and administration has been a topic of many authors over the years. The many pages written on the subject would fill several libraries. Mr. Souryal's recent efforts are directed to a basic view of police administration, and the book is set up to be used as a classroom text.

Beginning with the definition of bureaucracy and carrying through an examination of civilian review boards, Souryal touches on the basics of running an efficient and effective organization.

In the opening chapter, Souryal compares public and private sector administration, accomplishing this with a series of definitions. Throughout the text it becomes apparent that no paragraph can be complete without five to ten definitions.

The text is outlined in such a way as to be directed to the new student in police administration, rather than being an advanced publication for the chief administrator of a police agency. If used in law enforcement classes, the text should be very effective in indoctrinating a police-administration student to understand the basic issue of police administration and to seek further information in the various categories outlined by the author.

ROBERT T. SHOCKEY  
Chief of Police  
Hazelwood, Missouri

## CRIMINAL JUSTICE EDUCATION

### The End of the Beginning

by

Richard Pearson, Theodore K. Moran, James C. Berger,  
Kenneth C. Laudon, Jnnice R. McKenzie, Thomas J. Bonita III

*Criminal Justice Education: The End of the Beginning* is the result of a five-year study of criminal justice education in American colleges and universities. The authors — a faculty planning group at the John Jay College of Criminal Justice — based their findings and conclusions upon 250 questionnaire surveys among respondents in 37 states at 146 institutions, campus visits for interviews at 14 universities, and a content analysis of college catalogs. In addition, an advisory committee appointed by the Academy of Criminal Justice Sciences contributed guidance and suggestions on methodology and, based on a second questionnaire, confirmed and extended the findings of the authors.

The study examines a sector of postsecondary education that grew intensively during the late 1960's and 1970's when other sectors faced dwindling enrollments, limited budgets and marginal growth. During two decades, the authors found, an early emphasis on vocationalism in criminal justice education was replaced by academic programs developed in the humanities, the social and behavioral sciences, and professional subjects. They examine a professoriate that strongly emphasized practical experience but later developed traditional academic credentials. They describe new and distinctive ways that were developed to teach non-traditional students, including mid-career police officers and other criminal justice practitioners.

The authors conclude that criminal justice education has, during only two decades, become an established, vital part of the educational curricula in America colleges and universities. They also attempt to define some of the current and future problems for educators, including the need for scholarship and research, the tension between general liberal arts studies and professional studies in law enforcement and criminal justice, vague educational objectives which need clarification, and the quality of criminal justice education.

*Criminal Justice Education* will be of interest to criminal justice educators at college and universities and to law enforcement executives and practitioners who are concerned with the development of their field. For educators generally, this book provides evidence that postsecondary education has not lost its capacity for innovation and growth.

ISBN: 0-89444-030-6

220 pages

\$5.50

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## Profs and pros debate role of discretion in making arrests

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enforce a law, such as an officer not charging an assailant because the attack was provoked, and trying to maintain social order by committing a low-level violation, such as ordering a group of juveniles to disburse without having the authority to do so.

### Guidelines Hamper Effectiveness

Conboy and Egan both countered by saying that the officer's oath allows for the use of discretion and that efforts to establish guidelines would limit the officer's effectiveness as well as use of discretion.

"My experience is that there is no way you can set up rigid guidelines for these situations," Egan observed. "The central concern is the police officer upholding his oath.... The officer is assumed to be intelligent, well-intentioned.... The problems arise from the minority of officers who don't have principles or who have poor judgment."

Conboy blasted Heffernan's stance as unrealistic. "A great deal of theory has been promulgated since the mid-1960's by people who have not really been in a position to see the nuances of a police investigation," the deputy commissioner said.

Heffernan summed up his position simply. "These are all attempts on the police officer's part to bring about good, but the actions are not provided for in the law."

### To Tell or Not To Tell

In the session's second discussion, Thomas Wren, an associate professor of philosophy at Loyola University of Chicago, discussed the moral dilemma of an officer who discovers that a partner is guilty of misconduct.

He dealt particularly with the officer who knows that revealing the misconduct could ruin the partner's career, without protecting the victim.

Wren said that observers outside the situation often play down the difficult choice between upholding police standards and being loyal to a good friend, by assuming that turning in the partner is the only honorable choice.

But Wren said many factors encourage

the officer not to inform on a partner, including society's idea that being a "tattletale" is somehow shameful and the strong sense of fraternity that pervades policing.

He argued that the sense of fraternity is necessary to police, who often must trust their lives to each other, so the decision to betray the fraternity is a serious one.

To help officers in that position, Wren recommended that outsiders recognize the difficulty of the dilemma, including the possibility that deciding not to report a partner may sometimes be right.

### 'Make Informing Easier'

He urged police departments to set up structures that make informing easier and that would insure that fair treatment of both those implicated and those who made the report.

Another step, he said, would be to make the police force less like the military, helping to ease the "code of silence" expected by officers of each other.

Commenting on the loyalty issue, NYCPD Deputy Commissioner Conboy said every officer is obligated to come forward with information about misconduct, no matter what the circumstances.

The difficulty, Conboy said, comes in the case of an upright officer who is called on to testify against a partner, but refuses.

Conboy maintained that while police administrators must have sympathy for the officer's dilemma, as Wren suggested, they must punish the officer who refuses to cooperate.

### Getting the Message Across

He said such a punishment must be fair, perhaps a short suspension or even a reprimand, so that the administration makes it clear that withholding information is wrong, but that it sympathizes with the officer.

New York Post reporter Egan said loyalty is not a factor in an officer remaining quiet, but that the officer risks being ostracized by other officers and beginning a cycle of informing that could hurt him or other friends.

Better than the average memoir, but...

## McGee breaks no new turf

Continued from Page 11

relationships of all the various powers in corrections.

Still, by choosing not to consult virtually any of the other literature in this field, and by an organizational scheme which is often quixotic, he doesn't rise to the point where, for example, this would be an appropriate text in a correctional administration course.

In general, to avoid ponderous academic prose, a folksy book on correctional administration might be attractive. Here, however, while there are dozens of examples of pitfalls McGee encountered, and innovative little strategies he devised to counter them, there is no systematic discussion of how to administer prisons. While there are calls for the development of leadership abilities in the ranks, there are no suggestions on how to do this. While there are complaints, by name, of the problems of supervision by wardens, there is not much here in the way of guidance to the newly-appointed. The level of guidance often takes the following form, wherein McGee discusses the problems of convincing the warden of the women's prison, Alma Holzshue, to follow instructions:

"It became necessary to threaten her with dismissal and order her on an extended vacation before she seemed willing to accept the authority of the department and of the state government."

McGee becomes most interesting when he begins to discuss the unresolved issues and problems of institutional corrections. He is an opponent of increased severity of sentences, and of mandatory sentences, and in general believes in the use of prison as society's last resort. He does not propose to defend prisons as a brilliant invention, but rather as some thing we use mainly because we have not yet discovered any acceptable alternative strategies. On the disparity in time served by various inmates, for example, McGee suggests: "Ours is a system with orderly procedures for arriving at a chaotic jumble of nonstandard and often irrational decisions."

His discussions of prison idleness, the efforts to develop prison industries and the development of objective research are often more readable than the equivalent in standard texts. However, no new ground is broken here.

This book is most useful, as McGee

presumes, to those in correctional administration who do not have extensive experience in dealing with politicians, and to advanced students of corrections who have already learned the basics. It makes interesting and easy reading, and gives some insight into McGee's important career. As a memoir, it is significantly better than the standard effort, and makes serious attempts to impart information and ideas. As an important political science work, however, it is too much of a memoir to make significant advances in our understanding.

MARTIN D. SCHWARTZ  
University of Cincinnati  
Cincinnati, Ohio

## Coming Up In LEN:

Insightful interviews with:

Chief Peter Ronstadt  
of the  
Tucson, Arizona, PD

Chief Charles Johnston  
of  
Lakewood, Colorado

and  
Lt. Col. John Watson,  
police liaison with  
the British Military  
Government in  
West Berlin

## Dogged pursuit of crime



McGruff, the national "Crime Dog," oversees a bike safety check in Philadelphia as part of National Police Week. During Police Week, from May 9-15, the 7-Eleven convenience store chain will provide its customers with special brochures on home security, senior citizen safety and "Neighborhood Watch" programs.

## Revisions to gun-control act get caught in Senate crossfire

Continued from Page 3

Massachusetts Senator, said Kennedy would have supported the proposed revisions if they had applied only to sporting guns. Kennedy's attempt to amend the bill to exempt cheap pistols failed.

But Tinker added that Kennedy considered the adoption of a waiting-period amendment a major victory. He said government task forces under Presidents Ford, Carter and Reagan have all recommended such waiting periods.

Tinker said the 14-day wait would not be an inconvenience for lawful gun owners, but would cut down on sales to buyers with criminal records, as well as avert some crimes of passion.

The NRA's Adkins argued that efforts to exempt handguns from the bill were based on the premise that guns cause crime. "They really are not going to have any effect on crime but will put a burden

on the law-abiding gun owner," he said.

He also said the NRA will fight the waiting-period amendment for similar reasons.

"It will just add paperwork," he said. "Before you know it, 14 days will turn into 21 and the red tape will really become a hassle. And it doesn't stop crime. Criminals just don't go through legitimate commercial channels."

Adkins charged that Senator Kennedy, who also attempted to include a provision that would ban the sale of armor-piercing bullets, "tried to steal some thunder and make it look like he was cracking down on crime" in fighting to amend the bill.

Kennedy aide Tinker said that the Senator has supported gun control for 10 years. "If that's riding in on something, then it's a very old horse."



## Supreme Court Briefs: licensing process not hurt by vagueness

Continued from Page 5

trary to both the Texas and U.S. Constitutions.

Deciding not to appeal the decision of the Texas court, the City Council issued the license. Less than a month later, though, on February 7, 1977, the City Council adopted a new ordinance which repealed the Aladdin's Castle Inc. exemption and reinstated the 17-year-old minimum age requirement for unaccompanied children. The new ordinance further defined the term "connected with criminal elements." The definition took up 18 lines of footnote in the Supreme Court's decision.

Learning of the City Council's action, the newly licensed amusement center owners brought an action in the United States District court for the Northern District of Texas, in which they sought to prevent enforcement of the new ordinance. After a trial the District Court determined that the term "connected with criminal elements," even as newly defined, was still unconstitutionally vague. However, the District Court did uphold the age restriction.

An appeal was taken to the Court of Appeals for the Fifth Circuit. That court also held that the statutory language in question was unconstitutionally vague. The appellate court further stated that the ordinance's prohibition relating to children under the age of 17 did not pass the rational basis test for constitutionality of a statute.

In December 1977, the City Council again amended the ordinance to eliminate the "connected with criminal elements" clause, although they retained the 17-year-old age restriction. Inasmuch as the ordinance was in conflict with the decision of the Court of Appeals, the City took this appeal to the Supreme Court.

In a unanimous action, the Supreme Court reversed the decision of the Court of Appeals insofar as the appellate court

had held that the directive to the Chief of Police to investigate the applicant's possible connection with criminal elements was unconstitutionally vague.

Writing for a Court majority that included the Chief Justice and Justices Brennan, Marshall, Blackmun, Rehnquist and O'Connor, Associate Justice Stevens noted that the "Federal Constitution does not preclude a city from giving vague or ambiguous directions to officials who are authorized to make investigations and recommendations." The opinion reasoned that the Police Chief's recommendation was only one part of the application process, with the decision actually being made by the City Manager, subject to the review of the City Council.

Ruling that the appellate court's view of the ordinance was incorrect, the Court reiterated that there "would be no constitutional objection to an ordinance that merely required an administrative official to review 'all relevant information' or 'to make such investigation as he deems appropriate' before formulating a recommendation."

With regard to the section of the original ordinance that prohibited persons under the age of 17 from using the amusement center unless accompanied by a parent or legal guardian, the Supreme Court remanded that issue to the Court of Appeals for the Fifth Circuit for their determination under Texas law.

Justice White and Powell, writing separate concurring opinions, agreed with the finding that the ordinance directing the Chief of Police to consider whether a license applicant was connected with criminal elements was acceptable to the Constitution. However, both Justices criticized the Supreme Court's action in remanding the age question back to the Court of Appeals. (City of Mesquite v. Aladdin's Castle Inc., No. 80-1577, decision announced on February 23, 1982.)

## In growing numbers, cities use officers who like to horse around

Continued from Page 7

he valuable in patrolling residential areas where tall fences surround many backyards, since mounted officers can see over the fences.

A Dallas PD public information officer, Bob Shaw, said the city also expects to use horses during the 1984 Republican Convention, which is tentatively planned for Dallas.

In New York, where mounted patrols have been used for many years, officers on horseback patrol high-density shopping areas and parks. The city has about 200 mounts, a spokesman said.

The Boston Police Department boosted its mounted patrol from 15 to 90 horses in 1978, said Connolly, who trained officers for the patrol during the build-up.

He said the mounted officers make regular patrols, carrying radios and rope, so they can "park" their animal when responding to an emergency.

"We found they were excellent at crowd control and parades," Connolly said.

Despite the growing popularity of mounted patrols, some cities have cut back the number of horses on the streets in recent months to meet budget reductions. Boston cut its force almost in half

in the past year and Philadelphia, which established a mounted patrol of 130 horses in 1982, now has 80 mounts on the streets.

Don Fair, public information officer for the Philadelphia Police Department, said one reason the number of mounted patrols was cut was the expense of maintaining stables.

Another problem, he said, was that horses and officers had to be transported to their beats each day, a process that sometimes takes up to an hour and a half and reduces the time officers were patrolling the streets.

Philadelphia probably will not make further cuts in mounted patrols, though, Fair said. "I think it's got a lot of obvious value and some hidden ones, too," he said. "It's good for public relations because the officers, because of their animals, attract people."

Mounted patrols are popular with officers, too. Many horse units have long waiting lists and are considered choice assignments.

"At first you're a little leery," said Connolly, a 16-year veteran of the Boston unit. "But it gets in your blood. Before long, you're bringing the horse an apple or candy and combing its mane."



## BURDEN'S BEAT

By ORDWAY P. BURDEN

### Yelling into Washington's deaf ear, Part 2: Mich. cop creeps closer to heroism award

In a column published on Washington's Birthday, the frustrations of trying to communicate with the bureaucracy in the first President's namesake city were detailed in this space. The column told the story of Chief Charles W. Young Sr. of the Hazel Park, Mich., Police Department, who had spent three years struggling to get national recognition for a heroic policeman in White Lake, Mich.

Now it's a pleasure to report that the bureaucracy's cumbersome wheels may be turning, and that Chief Young's struggles may eventually bear fruit.

The story really begins in 1974, when Congress authorized two national awards for public safety officers (law enforcement personnel, firefighters and civil defense officers). One, called the President's Award, was to be for "extraordinary valor" or "outstanding contributions to public safety." The other, called the Secretary's Award, was to be for "distinguished service in the field of public safety." Rules for applying for these major awards were published September 30, 1977, in the Federal Register and were to go into effect on January 1, 1978.

On March 14, 1978, Patrolman Randy Longenfelter of the White Lake Township PD exchanged himself for several young hostages who were being held on a school bus by a disturbed 15-year-old boy wielding a shotgun. After a tense confrontation, the boy was apprehended when he was wounded by another officer while holding the shotgun on Longenfelter.

In the opinion of Chief Young, Officer Longenfelter clearly deserved the President's Award for extraordinary valor. In his capacity as chairman of the Awards and Citations Committee of the Michigan Association of Chiefs of Police (MACP), Chief Young gathered the required documentation and endorsements and sent off the half-inch thick file to Washington on October 19, 1978. Meanwhile, the MACP gave Longenfelter its Medal of Honor.

Then began the long wait. The application apparently filtered through the Federal labyrinth along with two others submitted that year. Chief Young wrote letters and kept the telephone wires hot, trying to follow the application's trail from the National Fire Prevention and Control Administration, the agency first given responsibility for the awards program, to the Federal Emergency Management Agency, and then, to all appearances, to oblivion. With the help of a couple of Congressmen, he finally found out last August that the awards program had been stillborn.

Chief Young then went to the top. He wrote an impassioned letter to President Reagan, saying, among other things: "Is there anyone in Washington who cares about the Randy Longenfelters of America? ... My every attempt in this matter has been thwarted at the Washington level. You are our only remaining hope."

Chief Young waited some more. No answer, not even an acknowledgement. Five months later, on January 27 of this year, he wrote to the President again, enclosing a copy of his earlier letter. Finally, on March 1, he got a response. It was from Anne Higgins, special assistant to the President, who enclosed a copy of a letter to Patrolman Longenfelter signed by Mr. Reagan. The letter to Longenfelter said nothing about a President's Award, but it had nice things to say about him. "You proved yourself to be courageous, quick-thinking and concerned for the well-being of your fellowmen. ... I join with all who have honored you in adding my own words of praise," the President said.

In her letter to Chief Young, Ms. Higgins said she had learned from the Office of Management and Budget that the awards program was never activated and no awards, therefore, were ever given. The awards were a casualty of budget-cutting by both the Carter and Reagan Administrations.

Chief Young, understandably, was unhappy. "How much could an awards program cost?" he asked. "I could run the whole program myself for a hundred thou, and is this too much to spend to honor public safety heroes?"

He pointed out that the MACP pays \$35 each for the seven or eight medals it presents each year to Michigan law enforcement officers who have performed heroic deeds. Federal awards probably ought to be more elaborate, he added, "but for \$300 you can get a fantastic medal." If two such medals were given each year for each state, the cost medals would be only \$30,000, a minuscule drain on the Federal treasury to recognize outstanding service by police and firefighters.

Chief Young was at the end of his wits when he got an unexpected reprieve. It was in the form of a letter dated April 13, boding out hope that the Federal awards program may be reinstated. The writer was B.J. Thompson, administrator of the U.S. Fire Administration in the Federal Emergency Management Agency. "Please rest assured that since your letter [of January 27] has come to my attention, I am taking all necessary steps to look into reinstituting the President's and Secretary's Public Safety Awards for public safety officers," Thompson wrote. "You are very correct that we in America need heroes to whom youngsters can look for good role models." He added that he hoped a policy decision would be made soon on whether to get the awards program off the ground.

Chief Young, naturally, was ecstatic, calling the letter "the first positive reaction I have seen from anyone in Washington" since the application for Randy Longenfelter was submitted in October 1978. The awards program is still some distance from reality, of course, but there is now hope that Congress's pledge to the public safety community eight years ago may yet be fulfilled.

(Ordway P. Burden welcomes correspondence to his office at 651 Colonial Blvd., Westwood P.O., Washington Twp., NJ 07675.)

### MOVING?

Don't leave Law Enforcement News behind. If you're planning a move, be sure to send your new address, along with the mailing label that includes your LEN account number, to: Subscription Dept., LEN, 444 West 56th St., New York, NY 10019.



# JOBS

**Faculty Position.** Milwaukee Area Technical College has a position opening for fall 1982 for an individual to develop curriculum and teach in their associate degree program in police science/private security. Successful candidate will also design and teach short courses and programs for police and private security outreach offerings.

Applicants must have a minimum of a baccalaureate with at least five years experience in the occupations. A combination of experience and education will be accepted. A master's degree and experience in teaching and curriculum design is desirable.

To be considered for the position, call or write for official application form and job description. Contact: Milwaukee Area Technical College, Office of Employee Services, 1015 North Sixth Street, Milwaukee, WI 53203. Telephone: (414) 278-6576.

**Police Officers.** Immediate openings are available in the Largo, Fla., Police Department, an agency that serves a city of 65,000 residents and offers progressive and professional growth in law enforcement. The Largo Police Department was recently chosen as an Integrated Criminal Apprehension Program city by the State of Florida.

Minimum recruit-level entry requirements include U.S. citizenship, a high school diploma or equivalent G.E.D. recognized by the State of Florida, and applicants must be at least 19 years of age. Base salary range is \$14,019 to \$18,595 after six years of service, plus a comprehensive benefits package. Salary incentives are provided by the State of Florida for a college degree or earned college credits equivalent to two years of college.

To apply, send resume to: Largo Police Department, Personnel Unit, P.O. Box 296, Largo, FL 33540. Telephone: (813) 586-2666, ext. 302.

## LEN interview: Chief Gerald Loudermilk

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**LOUDERMILK:** It only stands to reason if you've got a mugger in New York and he knows you're not armed or carrying anything, 9 chances out of 10 you're going to get mugged. But if you're carrying a gun, he might think twice. I think it would make it harder for the criminal. The criminal is not going to pick on somebody that can knock the hell out of him, somebody that can blow his head off. He's going to get some woman or some elderly person, where he's relatively sure that whether he's going to strong-arm them or stick them up or break into their house or whatever, that he's relatively safe and he can get out without any problems.

**LEN:** Isn't it true that many homeowners and storeowners have their own guns used against them or that they force the intruder to use violence by displaying a weapon?

**LOUDERMILK:** That's why I said right along with it that if he's going to carry one, he ought to know how to use it. Again, what does the Constitution of the United States say? Does it give you the right to bear arms? Now that tells me one thing: that anybody in this country can strap a gun on their side and as long as they don't conceal it, they can legally pack a gun. Here you've got Morton Grove turning in their guns. What if they come around and say you're not allowed to have a television in your house? What's the difference between that and you're not allowed to have a gun in your house?

**LEN:** Isn't the difference that people usually don't get killed with televisions?

**LOUDERMILK:** People don't get killed with guns, either. Guns don't kill people; people kill people. That gun isn't going to jump up and shoot you unless there's somebody on the other end of it.

**LEN:** Have you developed any defensive strategies to go along with the deadly-force policy, such as the use of soft body armor?

**LOUDERMILK:** No. We don't wear bulletproof vests.

**Police Officers.** Cheyenne, Wyo., located in the heart of the Rocky Mountains, is seeking men and women between the ages of 21 and 35 for police officer vacancies.

Applicants must be able to pass written, strength and agility, polygraph, oral board, and medical examinations, as well as a background investigation. The written exam will be administered at 8 A.M. on June 19, 1982, and applicants must be able to remain in Cheyenne for testing from June 19 through June 23. Starting salary for the positions is \$14,448 per year.

Further information and an application form may be obtained by writing to: Personnel Department, City of Cheyenne, 2101 O'Neil Avenue, Cheyenne, WY 82001. The deadline for receipt of applications is June 10. A resume is appreciated.

**Police Officers.** Immediate openings are available with the Tampa, Fla., Police Department. The department is currently seeking applicants between 21 and 30 years of age. In addition, candidates must possess at least a high school diploma or the equivalent, be a U.S. citizen, and possess a valid Florida driver's license. A background investigation will be conducted.

Base salary range is \$14,409.20 to 19,006 per year, plus a comprehensive benefits package that includes a 20-year retirement plan.

Address inquiries to: Tampa Police Department, Personnel Section, 170 N. Tampa Street, Tampa, FL 33602. Telephone: (813) 223-8476.

**Police Officers.** The City of St. Petersburg, Fla., has a number of vacant positions and is now recruiting experienced, certified police officers, as well as applicants with no police experience.

Applicants should possess a high school diploma or G.E.D. certificate, be at least 19 years of age and not

older than 34, and possess a valid driver's license.

Starting salary for non-experienced officers is \$14,701 per year.

For further information, write or call: The City of St. Petersburg Employment Department, 205 Ninth Street North, St. Petersburg, FL 33701. Telephone: (813) 893-7272.

Minorities and females are encouraged to apply.

**Police Officers.** The City of Burlington, N.C., has set a hiring date of July 1982 for new police officers. The 102-member department is seeking applicants who are at least 20 years old, possess a high school diploma (college preferred), are in good physical condition with weight proportionate to height, have 20/20 corrected vision, and are of good moral character. Applicants must successfully pass a written aptitude test, physical agility test, oral review, polygraph examination, physical exam, and an extensive background investigation.

Starting salary for police officers is \$12,050 to \$12,350 annually, with top pay from \$15,408 to \$16,008, depending upon educational level. Fringe benefits include nine paid holidays, 12 sick days, and 12+ vacation days per year. All uniforms, leather and weapon are furnished.

To apply, send resume to: Personnel Department, City of Burlington, P.O. Box 1358, Burlington, NC 27215.

**Police Chief.** Orangeburg, S.C., seeks a qualified law enforcement professional to plan, direct and evaluate operations within its 38-member municipal police department. The individual selected will be responsible for developing an annual budget and controlling budgeted expenses, and for developing and implementing progressive policies, procedures, rules, regulations and programs for the betterment of the department.

Applicants should have a comprehensive knowledge of laws and court decisions relating the administration of municipal law enforcement and public safety, and should be skilled in scientific methods of crime detection, I.D., communications and personnel. The position requires extensive experience and education in law enforcement and public safety of a progressively responsible nature, and answers to a city administrator and a five-member city council.

To apply, send resume to: City Administrator, P.O. Drawer 387, Orangeburg, SC 29116.

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# LAW ENFORCEMENT NEWS

May 10, 1982

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New York, New York 10019

## Sticking to his guns

Chief Gerald Loudermilk of Terre Haute, Indiana, found the national spotlight focused on him last year after he issued his so-called 'shoot-to-kill' policy on deadly force. In special LEN interview, he speaks frankly of his views on use of force, capital punishment and the rights of criminals. **On 8.**



### Also in this issue:

Awaiting the long-awaited Federal criminal code revision? Keep waiting. After 14 years, it's still in committee.	1	experimented with propane-powered cars get mixed results.	3
The sun may be shining a little brighter in the Sunshine State, with officials reporting progress against drugs in Florida.	1	People & Places.	4
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